

A-E CONTRACTING BULLETIN 98-02, 28 JAN 98

SUBJECT: SIX PERCENT STATUTORY LIMITATION

1. A frequently asked question is whether the construction cost estimate is excluded from the six percent statutory limitation. Answer: No. Preparation of the construction cost estimate is an integral part of "producing and delivering designs, plans, drawings and specifications" and is subject to the six percent limitation.

2. Why? The mandatory Design within Funding Limitation Clause (FAR 52.236-22) requires an A-E to design a project within the construction budget. An A-E must prepare the cost estimate coincident with preparing the construction documents to guide the selection of materials, components, and systems in order to keep the project within budget. Hence, the estimate is a necessary and integral part of the design process, and not excludable.

3. This interpretation is shared by other major construction agencies such as GSA, NAVFAC and VA.

4. This bulletin has been coordinated with the Office of the Chief Counsel and the Office of the Principal Assistant Responsible for Contracting.

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